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October 26, 2023

Via ECF

Hon. Valerie Figueredo
United States District Court
for the Southern District of New York
500 Pearl Street
New York, New York 10007

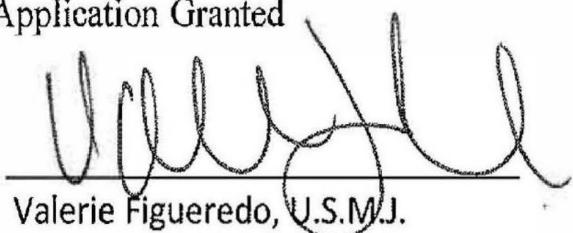
Re: *United States ex rel. Bassan v. Omnicare, Inc.*, No. 15 Civ. 4179 (CM) (VF)

Dear Judge Figueredo:

We write regarding one housekeeping matter arising from the Court's October 25, 2023 order (Dkt. 370). We understand that the government submitted to the Court via *ex parte* email the clawed-back document (OMNICARE-USA0-00454799) at issue in Defendants' underlying motion to compel (Dkt. 366). In addition, at the Court's request, we provided an unredacted version of Barry Hart's expert report (received from the government), which quoted from and relied on the clawed-back document, so the Court would have context for arguments made in the motion.

To ensure that future reviewing courts have the full record relevant to Defendants' motion, we request that the Court put the clawed-back document and unredacted Hart report on the docket, but under seal in a way that precludes Defendants from accessing it. This will ensure that any review of the Court's order occurs with a complete record. *See generally* Fed. R. Civ. P. 72(b); *In re 650 Fifth Ave. & Related Props.*, 934 F.3d 147, 156–60 (2d Cir. 2019); *Moll v. Telesector Res. Grp.*, 760 F.3d 198, 204 (2d Cir. 2014); *In re Dana Corp.*, 574 F.3d 129, 148–51 (2d Cir. 2009); *Hollander v. Am. Cyanamid Co.*, 895 F.2d 80, 82 (2d Cir. 1990).

Application Granted



Valerie Figueredo, U.S.M.J.

DATED: October 30, 2023

The government is directed to file under seal the clawed-back document and unredacted Barry Hart expert report such that only the Court and the government may view them. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 372.

Sincerely,

/s/ David Randall J. Riskin

David Randall J. Riskin